



February 26, 2016

ENGROSSED SENATE BILL No. 378

DIGEST OF SB 378 (Updated February 24, 2016 1:52 pm - DI 120)

Citations Affected: IC 4-4; IC 5-14; IC 5-28; IC 6-3.1.

Synopsis: Indiana economic development corporation. Provides that the office of small business and entrepreneurship may maintain: (1) a toll free telephone number; and (2) an Internet web page; to provide free access to the office's services related to the Indiana small business development center. Provides that the Indiana economic development corporation (IEDC) may (instead of "shall" as under current law) maintain a small business division to carry out its duties. Provides that, if the IEDC maintains a small business division, the IEDC shall provide free access to the division services through: (1) a toll free telephone number; and (2) an Internet web page. Repeals the local economic development organization grant program. Amends the definition of "qualified entity" for purposes of the economic development fund to include a local economic development organization eligible for a grant under the local economic development organization grant program. Provides that the IEDC has certain powers concerning enterprise zones that would otherwise be entrusted to the board of the IEDC under
(Continued next page)

Effective: July 1, 2016.

Yoder, Hershman

(HOUSE SPONSORS — SMALTZ, OLTHOFF, HALE, MACER)

January 11, 2016, read first time and referred to Committee on Commerce & Technology.
January 25, 2016, amended, reported favorably — Do Pass.
January 28, 2016, read second time, ordered engrossed. Engrossed.
February 1, 2016, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 9, 2016, read first time and referred to Committee on Commerce, Small Business and Economic Development.
February 25, 2016, reported — Do Pass.

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current law. Provides that an enterprise zone business that fails to comply with certain annual reporting requirements to the IEDC waives the amount of the tax and exemption incentives available to the zone business for the preceding year, unless the zone business pays the IEDC a penalty of: (1) an amount not to exceed 7% for the first instance of noncompliance; or (2) 15% for the second instance of noncompliance and each subsequent instance; of the amount of the tax credit and exemption incentives for the preceding year. (Under current law, the penalty amount is 15% for each instance of noncompliance.) Provides that the IEDC (and not the board of the IEDC as under current law) has certain powers and duties concerning certain tax credit provisions. Repeals the definition of "director" in certain tax credit provisions. Provides that the IEDC (and not the director of the IEDC as under current law) has certain duties concerning those tax credit provisions. Provides that, if the IEDC determines that a taxpayer is not in compliance with an economic development for a growing economy tax credit agreement, a Hoosier business investment tax credit agreement, or a Hoosier alternative fuel vehicle manufacturer tax credit agreement, the IEDC shall, after giving the taxpayer an opportunity to explain the noncompliance: (1) notify the department of state revenue of the noncompliance; and (2) request that the department of state revenue impose an assessment on the taxpayer as provided by the tax credit agreement. (Under current law, the department of state revenue and the IEDC may make determinations concerning a taxpayer's noncompliance with a tax credit agreement.) Repeals outdated language. Makes conforming amendments.



February 26, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 378

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-4-35-5, AS ADDED BY P.L.187-2014,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 5. (a) The office shall do the following:

- 4 (1) Operate the Indiana small business development center.
- 5 (2) Maintain, through the small business development centers, a
6 statewide network of public, private, and educational resources to,
7 among other things, inform small businesses of the state and
8 federal programs under which small businesses may obtain
9 financial assistance or realize reduced costs through programs
10 such as the small employer health insurance pooling program
11 under IC 27-8-5-16(8).
- 12 (3) Employ a small business ombudsman.
- 13 (4) Support the development of small business in Indiana through
14 the Indiana small business development center.
- 15 (5) Administer the young entrepreneurs program under IC 4-4-36.

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(6) Develop and administer programs to support the growth of small businesses.

(b) The office may maintain:

(1) a toll free telephone number; and

(2) an Internet web page;

to provide free access to the office's services related to the Indiana small business development center.

SECTION 2. IC 5-14-1.5-6.1, AS AMENDED BY P.L.103-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6.1. (a) As used in this section, "public official" means a person:

(1) who is a member of a governing body of a public agency; or

(2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

(1) Where authorized by federal or state statute.

(2) For discussion of strategy with respect to any of the following:

(A) Collective bargaining.

(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing. As used in this clause, "litigation" includes any judicial action or administrative law proceeding under federal or state law.

(C) The implementation of security systems.

(D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

(E) School consolidation.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by:

(A) the Indiana economic development corporation;

(B) the office of tourism development;

(C) the Indiana finance authority;

(D) the ports of Indiana;

(E) an economic development commission;

(F) the Indiana state department of agriculture;

(G) a local economic development organization ~~(as defined in IC 5-28-11-2(3))~~; **that is a nonprofit corporation established**



under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana; or (H) a governing body of a political subdivision.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public



officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(14) To train members of a board of aviation commissioners appointed under IC 8-22-2 or members of an airport authority board appointed under IC 8-22-3 with an outside consultant about the performance of the role of the members as public officials. A board may hold not more than one (1) executive session per calendar year under this subdivision.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 3. IC 5-14-3-4, AS AMENDED BY P.L.181-2015, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.



(6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39 or as provided under IC 16-41-8.

(10) Application information declared confidential by ~~the board of~~ the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(13) The following information that is part of a foreclosure action subject to IC 32-30-10.5:

(A) Contact information for a debtor, as described in IC 32-30-10.5-8(d)(1)(B).

(B) Any document submitted to the court as part of the debtor's loss mitigation package under IC 32-30-10.5-10(a)(3).

(14) The following information obtained from a call made to a fraud hotline established under IC 36-1-8-8.5:

(A) The identity of any individual who makes a call to the fraud hotline.

(B) A report, transcript, audio recording, or other information concerning a call to the fraud hotline.

However, records described in this subdivision may be disclosed to a law enforcement agency, the attorney general, the inspector general, the state examiner, or a prosecuting attorney.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. Law enforcement agencies may share investigatory records with a person who advocates on behalf of a crime victim, including a victim advocate (as defined in IC 35-37-6-3.5) or a victim service



provider (as defined in IC 35-37-6-5), for the purposes of providing services to a victim or describing services that may be available to a victim, without the law enforcement agency losing its discretion to keep those records confidential from other records requesters. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between:

(i) the Indiana economic development corporation;

(ii) the ports of Indiana;

(iii) the Indiana state department of agriculture;

(iv) the Indiana finance authority;

(v) an economic development commission;

(vi) a local economic development organization **(as defined in IC 5-28-11-2(3)), that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana;** or

(vii) a governing body of a political subdivision with industrial, research, or commercial prospects;

if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this



chapter after negotiations with that prospect have terminated.
 (C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(D) Notwithstanding clause (A), an incentive agreement with an incentive recipient shall be available for inspection and copying under section 3 of this chapter after the date the incentive recipient and the Indiana economic development corporation execute the incentive agreement regardless of whether negotiations are in progress with the recipient after that date regarding a modification or extension of the incentive agreement.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency



or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety



1 by exposing a vulnerability to terrorist attack. A record described
2 under this subdivision includes:

3 (A) a record assembled, prepared, or maintained to prevent,
4 mitigate, or respond to an act of terrorism under IC 35-47-12-1
5 or an act of agricultural terrorism under IC 35-47-12-2;

6 (B) vulnerability assessments;

7 (C) risk planning documents;

8 (D) needs assessments;

9 (E) threat assessments;

10 (F) intelligence assessments;

11 (G) domestic preparedness strategies;

12 (H) the location of community drinking water wells and
13 surface water intakes;

14 (I) the emergency contact information of emergency
15 responders and volunteers;

16 (J) infrastructure records that disclose the configuration of
17 critical systems such as communication, electrical, ventilation,
18 water, and wastewater systems;

19 (K) detailed drawings or specifications of structural elements,
20 floor plans, and operating, utility, or security systems, whether
21 in paper or electronic form, of any building or facility located
22 on an airport (as defined in IC 8-21-1-1) that is owned,
23 occupied, leased, or maintained by a public agency. A record
24 described in this clause may not be released for public
25 inspection by any public agency without the prior approval of
26 the public agency that owns, occupies, leases, or maintains the
27 airport. The public agency that owns, occupies, leases, or
28 maintains the airport:

29 (i) is responsible for determining whether the public
30 disclosure of a record or a part of a record has a reasonable
31 likelihood of threatening public safety by exposing a
32 vulnerability to terrorist attack; and

33 (ii) must identify a record described under item (i) and
34 clearly mark the record as "confidential and not subject to
35 public disclosure under IC 5-14-3-4(b)(19)(J) without
36 approval of (insert name of submitting public agency)"; and

37 (L) the home address, home telephone number, and emergency
38 contact information for any:

39 (i) emergency management worker (as defined in
40 IC 10-14-3-3);

41 (ii) public safety officer (as defined in IC 35-47-4.5-3);

42 (iii) emergency medical responder (as defined in



IC 16-18-2-109.8); or

(iv) advanced emergency medical technician (as defined in IC 16-18-2-6.5).

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

(A) contain personal information relating to:

(i) a correctional officer (as defined in IC 5-10-10-1.5);

(ii) a law enforcement officer (as defined in IC 35-31.5-2-185);

(iii) a judge (as defined in IC 33-38-12-3);

(iv) the victim of a crime; or

(v) a family member of a correctional officer, law enforcement officer (as defined in IC 35-31.5-2-185), judge (as defined in IC 33-38-12-3), or victim of a crime; or

(B) concern or could affect the security of a jail or correctional facility.

(24) Information concerning an individual less than eighteen (18) years of age who participates in a conference, meeting, program,



or activity conducted or supervised by a state educational institution, including the following information regarding the individual or the individual's parent or guardian:

(A) Name.

(B) Address.

(C) Telephone number.

(D) Electronic mail account address.

(25) Criminal intelligence information.

(26) The following information contained in a report of unclaimed property under IC 32-34-1-26 or in a claim for unclaimed property under IC 32-34-1-36:

(A) date of birth;

(B) driver's license number;

(C) taxpayer identification number;

(D) employer identification number; or

(E) account number.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption or patient medical records, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an exception from disclosure under this section.

(f) Except as provided by law, a public agency may not adopt a rule or procedure that creates an exception from disclosure under this section based upon whether a public record is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.

(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.

(h) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 4. IC 5-28-3-5 IS REPEALED [EFFECTIVE JULY 1, 2016]. ~~Sec. 5. The following bodies corporate and politic are transferred to the corporation to be operated as separate corporate~~



1 entities under the supervision of the corporation on July 1, 2005:

2 (1) Indiana small business development corporation established
3 under IC 4-3-12-1 (before its repeal):

4 (2) Indiana economic development council established under
5 IC 4-3-14 (before its repeal):

6 SECTION 5. IC 5-28-5-6.5, AS AMENDED BY P.L.187-2014,
7 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2016]: Sec. 6.5. The board ~~shall~~ **may** maintain a small
9 business division to carry out the corporation's duties under IC 5-28-17.
10 The board shall staff the division with employees of the corporation.

11 SECTION 6. IC 5-28-8-4, AS ADDED BY P.L.235-2005,
12 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2016]: Sec. 4. As used in this chapter, "qualified entity"
14 means:

15 (1) the state;

16 (2) a political subdivision of the state;

17 (3) an agency of the state or a political subdivision of the state;

18 (4) a nonprofit corporation; ~~or~~

19 (5) the Indiana finance authority established under IC 4-4-10.9
20 and IC 4-4-11; **or**

21 (6) **any of the following local economic development**
22 **organizations:**

23 (A) An urban enterprise association established under
24 IC 5-28-15 (or IC 4-4-6.1 before its repeal).

25 (B) An economic development commission established
26 under IC 36-7-12.

27 (C) A nonprofit corporation established under state law
28 whose primary purpose is the promotion of industrial or
29 business development in Indiana, the retention or
30 expansion of Indiana businesses, or the development of
31 entrepreneurial activities in Indiana.

32 (D) A regional planning commission established under
33 IC 36-7-7.

34 (E) A nonprofit educational organization whose primary
35 purpose is educating and developing local leadership for
36 economic development initiatives.

37 (F) Other similar organizations whose purposes include
38 economic development and that are approved by the
39 corporation.

40 SECTION 7. IC 5-28-11 IS REPEALED [EFFECTIVE JULY 1,
41 2016]. (Local Economic Development Organization Grants).

42 SECTION 8. IC 5-28-11.5-5, AS ADDED BY P.L.35-2009,



SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) The purpose of the program is to assist the local economic development organizations that serve economically disadvantaged areas in the recruitment of new businesses.

(b) The corporation must find that an applicant for a grant under this chapter serves an economically disadvantaged area before approving the grant application.

(c) The corporation may provide a grant under the program to an organization to assist the organization in recruiting new business enterprises to the county or counties served by the organization. The grant may not be used by the organization to pay expenses for which the organization has received a grant under IC 5-28-11 **(before its repeal)**.

(d) A grant under this chapter may not be used by the organization to provide direct financial assistance to a business or specific development project.

SECTION 9. IC 5-28-14-9, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. To qualify for financial assistance under this chapter, a small business concern must:

(1) apply to the corporation for approval to participate in a trade show or trade mission in the form and by the time specified by the ~~board;~~ **corporation;**

(2) establish to the satisfaction of the corporation that participation in the trade show or trade mission will enhance the export opportunities of products produced in Indiana by the small business concern;

(3) maintain adequate records of the expenses incurred by the small business concern to participate in a trade show or trade mission;

(4) certify to the corporation the amount of financial assistance, if any, received by the small business concern from a trade show promotion program or trade mission program other than the program established by this chapter; and

(5) provide to the corporation, on request:

(A) the records of the expenses related to the small business concern's participation in a trade show or trade mission; and

(B) information regarding the effectiveness of the program established by this chapter in enhancing the export opportunities of the small business concern.

SECTION 10. IC 5-28-15-5, AS AMENDED BY P.L.288-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2016]: Sec. 5. (a) The board has the following powers, in addition to other powers that are contained in this chapter:

(1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation that this chapter provides.

(2) To waive or modify rules as provided in this chapter.

~~(3) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.~~

~~(4)~~ (3) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:

(A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars (\$1,000) in any year, pay a registration fee to the ~~board~~ **corporation** in an amount equal to one percent (1%) of all its incentives.

(B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.

(C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.

~~(5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.~~

~~(6)~~ (4) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:

(A) is in the best interests of the zone; and

(B) meets the threshold criteria and factors set forth in section 9 of this chapter.

~~(7)~~ (5) To employ staff and contract for services.

~~(8) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.~~

~~(9) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites.~~

~~(10) To make determinations under IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by that chapter in appropriate cases.~~

(b) In addition to a registration fee paid under subsection ~~(a)(4)(A)~~, **(a)(3)(A)**, each zone business that receives an incentive described in section 3 of this chapter shall assist the zone U.E.A. in an amount



determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the ~~board~~, **corporation**, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

SECTION 11. IC 5-28-15-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 5.5. The corporation has the following powers, in addition to the other powers that are contained in this chapter:**

- (1) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.
- (2) To disqualify a zone business from eligibility for any or all of the incentives available to zone businesses.
- (3) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.
- (4) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites.
- (5) To make determinations under IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by that chapter in appropriate cases.

SECTION 12. IC 5-28-15-7, AS AMENDED BY P.L.171-2015, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) Subject to subsections (c) and (d), a zone business that claims any of the incentives available to zone businesses shall, before June 1 of each year:

- (1) submit to the ~~board~~ **corporation** and to the zone U.E.A., on a form prescribed by the ~~board~~, **corporation**, a verified summary concerning the amount of tax credits and exemptions claimed by the business in the preceding year; and
- (2) pay the amount specified in section ~~5(a)(4)~~ **5(a)(3)** of this chapter to the ~~board~~, **corporation**.

(b) In order to determine the accuracy of the summary submitted under subsection (a), the ~~board~~ **corporation** is entitled to obtain copies



of a zone business's tax records directly from the department of state revenue, the department of local government finance, or a county official, notwithstanding any other law. A summary submitted to a **board the corporation** or a zone U.E.A., or a record obtained by the **board corporation** under this section is confidential. A **board member**; a U.E.A. member, or an agent of a **board member** or U.E.A. member, or an **employee of the corporation** who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.

(c) The **board corporation** may grant one (1) extension of the time allowed to comply with subsection (a) under the provisions of this subsection. To qualify for an extension, a zone business must apply to the **board corporation** before June 1. The application must be in the form specified by the **board corporation**. The extension may not exceed forty-five (45) days under rules adopted by the board under IC 4-22-2.

(d) If a zone business that did not comply with subsection (a) before June 1 and did not file for an extension under subsection (c) before June 1 complies with subsection (a) before July 16, the amount of the tax credit and exemption incentives for the preceding year that were otherwise available to the zone business because the business was a zone business are waived, unless the zone business pays to the **board corporation** a penalty of:

(1) **an amount not to exceed seven percent (7%), for the first instance of noncompliance; or**

(2) **fifteen percent (15%), for the second instance of noncompliance and each subsequent instance;**

of the amount of the tax credit and exemption incentives for the preceding year that were otherwise available to the zone business because the business was a zone business. A zone business that pays a penalty under this subsection for a year must pay the penalty to the **board corporation** before July 16 of that year. The **board corporation** shall deposit any penalty payments received under this subsection in the enterprise zone fund.

(e) This subsection is in addition to any other sanction imposed by subsection (d) or any other law. If a zone business fails to comply with subsection (a) before July 16 and does not pay any penalty required under subsection (d) before July 16 of that year, the zone business is:

(1) denied all the tax credit and exemption incentives available to a zone business because the business was a zone business for that year; and

(2) disqualified from further participation in the enterprise zone



1 program under this chapter until the zone business:

2 (A) petitions the board for readmission to the enterprise zone
3 program under this chapter; and

4 (B) pays a civil penalty of one hundred dollars (\$100).

5 SECTION 13. IC 5-28-15-9, AS ADDED BY P.L.4-2005,
6 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2016]: Sec. 9. (a) The board may designate up to ten (10)
8 enterprise zones, in addition to any enterprise zones the federal
9 government may designate in Indiana. The board may by seven (7)
10 affirmative votes increase the number of enterprise zones above ten
11 (10), but it may not add more than two (2) new zones each year
12 (excluding any zone that may be added by the board in a municipality
13 in which a previously designated zone has expired) and may not add
14 any new zones after December 31, 2015. There may not be more than
15 one (1) enterprise zone in any municipality.

16 (b) After approval by resolution of the legislative body, the
17 executive of any municipality that is not an included town under
18 IC 36-3-1-7 may submit one (1) application to the **board corporation**
19 to have one (1) part of the municipality designated as an enterprise
20 zone. If an application is denied, the executive may submit a new
21 application. The **board corporation** shall provide application
22 procedures.

23 (c) The **board corporation** shall evaluate an enterprise zone
24 application if it finds that the following threshold criteria exist in a
25 proposed zone:

26 (1) A poverty level in which twenty-five percent (25%) of the
27 households in the zone are below the poverty level as established
28 by the most recent United States census or an average rate of
29 unemployment for the most recent eighteen (18) month period for
30 which data is available that is at least one and one-half (1 1/2)
31 times the average statewide rate of unemployment for the same
32 eighteen (18) month period.

33 (2) A population of more than two thousand (2,000) but less than
34 ten thousand five hundred (10,500).

35 (3) An area of more than three-fourths (3/4) of a square mile but
36 less than four (4) square miles, with a continuous boundary (using
37 natural, street, or highway barriers when possible) entirely within
38 the applicant municipality. However, if the zone includes a parcel
39 of property that:

40 (A) is owned by the municipality; and

41 (B) has an area of at least twenty-five (25) acres;

42 the area of the zone may be increased above the four (4) square



mile limitation by an amount not to exceed the area of the municipally owned parcel.

(4) Property suitable for the development of a mix of commercial, industrial, and residential activities.

(5) The appointment of a U.E.A. that meets the requirements of section 13 of this chapter.

(6) A statement by the applicant indicating its willingness to provide certain specified economic development incentives.

(d) If an applicant has met the threshold criteria of subsection (c), the board shall evaluate the application, arrive at a decision based on the following factors, and either designate a zone or reject the application:

(1) Level of poverty, unemployment, and general distress of the area in comparison with other applicant and nonapplicant municipalities and the expression of need for an enterprise zone over and above the threshold criteria of subsection (c).

(2) Evidence of support for designation by residents, businesses, and private organizations in the proposed zone, and the demonstration of a willingness among those zone constituents to participate in zone area revitalization.

(3) Efforts by the applicant municipality to reduce the impediments to development in the zone area where necessary, including but not limited to the following:

(A) A procedure for streamlining local government regulations and permit procedures.

(B) Crime prevention activities involving zone residents.

(C) A plan for infrastructure improvements capable of supporting increased development activity.

(4) Significant efforts to encourage the reuse of existing zone structures in new development activities to preserve the existing character of the neighborhood, where appropriate.

(5) The proposed managerial structure of the zone and the capacity of the U.E.A. to carry out the goals and purposes of this chapter.

SECTION 14. IC 5-28-15-10, AS AMENDED BY P.L.1-2010, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 10. (a) Subject to subsection (b), an enterprise zone expires ten (10) years after the day on which it is designated by the board.

(b) In the period beginning December 1, 2008, and ending December 31, 2014, an enterprise zone does not expire under this section if the fiscal body of the municipality in which the enterprise



1 zone is located adopts a resolution renewing the enterprise zone for an
 2 additional five (5) years. An enterprise zone may be renewed under this
 3 subsection regardless of the number of times the enterprise zone has
 4 been renewed under subsections (c) and (d). A municipal fiscal body
 5 may adopt a renewal resolution and submit a copy of the resolution to
 6 the ~~board~~ **corporation**:

7 (1) before August 1, 2009, in the case of an enterprise zone that
 8 expired after November 30, 2008, or is scheduled to expire before
 9 September 1, 2009; or

10 (2) at least thirty (30) days before the expiration date of the
 11 enterprise zone, in the case of an enterprise zone scheduled to
 12 expire after August 31, 2009.

13 If an enterprise zone is renewed under this subsection after having been
 14 renewed under subsection (d), the enterprise zone may not be renewed
 15 after the expiration of this final five (5) year period.

16 (c) The two (2) year period immediately before the day on which the
 17 enterprise zone expires is the phaseout period. During the phaseout
 18 period, the board may review the success of the enterprise zone based
 19 on the following criteria and may, with the consent of the budget
 20 committee, renew the enterprise zone, including all provisions of this
 21 chapter, for five (5) years:

22 (1) Increases in capital investment in the zone.

23 (2) Retention of jobs and creation of jobs in the zone.

24 (3) Increases in employment opportunities for residents of the
 25 zone.

26 (d) If an enterprise zone is renewed under subsection (c), the two (2)
 27 year period immediately before the day on which the enterprise zone
 28 expires is another phaseout period. During the phaseout period, the
 29 board may review the success of the enterprise zone based on the
 30 criteria set forth in subsection (c) and, with the consent of the budget
 31 committee, may again renew the enterprise zone, including all
 32 provisions of this chapter, for a final period of five (5) years. The zone
 33 may not be renewed after the expiration of this final five (5) year
 34 period.

35 SECTION 15. IC 5-28-15-11, AS ADDED BY P.L.4-2005,
 36 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2016]: Sec. 11. (a) Notwithstanding any other provision of this
 38 chapter, one (1) or more units (as defined in IC 36-1-2-23) may declare
 39 all or any part of a military base or another military installation that is
 40 inactive, closed, or scheduled for closure as an enterprise zone. The
 41 declaration shall be made by a resolution of the legislative body of the
 42 unit that contains the geographic area being declared an enterprise



1 zone. The legislative body must include in the resolution that a U.E.A.
 2 is created or designate another entity to function as the U.E.A. under
 3 this chapter. The resolution must also be approved by the executive of
 4 the unit.

5 (b) If the resolution is approved, the executive shall file the
 6 resolution and the executive's approval with the ~~board~~ **corporation**. If
 7 an entity other than a U.E.A. is designated to function as a U.E.A., the
 8 entity's acceptance must be filed with the ~~board~~ **corporation** along
 9 with the resolution. The enterprise zone designation is effective on the
 10 first day of the month following the day the resolution is filed with the
 11 ~~board~~ **corporation**.

12 (c) Establishment of an enterprise zone under this section is not
 13 subject to the limit of two (2) new enterprise zones each year under
 14 section 9(a) of this chapter.

15 SECTION 16. IC 5-28-16-3, AS AMENDED BY P.L.137-2012,
 16 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2016]: Sec. 3. (a) An application requesting a grant or loan
 18 from the fund must be targeted to one (1) or more of the areas listed in
 19 section 2 of this chapter.

20 (b) A successful applicant for a grant or loan from the fund must
 21 meet the requirements of this section and be approved by the board. An
 22 application for a grant or loan from the fund must be made on an
 23 application form prescribed by the ~~board~~ **corporation**. An applicant
 24 shall provide all information that the board finds necessary to make the
 25 determinations required by this chapter.

26 (c) All applications for a grant or loan from the fund must include
 27 the following:

28 (1) A fully elaborated technical research or business plan,
 29 whichever applies, that is appropriate for review by outside
 30 experts as provided in this chapter.

31 (2) A detailed financial analysis that includes the commitment of
 32 resources by other entities that will be involved in the project.

33 (3) A statement of the economic development potential of the
 34 project, such as:

35 (A) a statement of the way in which support from the fund will
 36 lead to significantly increased funding from federal or private
 37 sources and from private sector research partners; or

38 (B) a projection of the jobs to be created.

39 (4) The identity, qualifications, and obligations of the applicant.

40 (5) Any other information that the board considers appropriate.

41 An applicant for a grant or loan from the fund may request that certain
 42 information that is submitted by the applicant be kept confidential.



1 However, an applicant's projection of the jobs to be created by a project
 2 may not be kept confidential. The ~~board~~ **corporation** shall make a
 3 determination of confidentiality as soon as is practicable. If the ~~board~~
 4 **corporation** determines that the information should not be kept
 5 confidential, the applicant may withdraw the application, and the ~~board~~
 6 **corporation** must return the information before making it part of any
 7 public record.

8 (d) An application for a grant or loan from the fund submitted by an
 9 academic researcher must be made through the office of the president
 10 of the researcher's academic institution with the express endorsement
 11 of the institution's president. An application for a grant or loan from the
 12 fund submitted by a private researcher must be made through the office
 13 of the highest ranking officer of the researcher's institution with the
 14 express endorsement of the institution. Any other application must be
 15 made through the office of the highest ranking officer of the entity
 16 submitting the application. In the case of an application for a grant or
 17 loan from the fund that is submitted jointly by one (1) or more
 18 researchers or entities, the application must be endorsed by each
 19 institution or entity as required by this subsection.

20 SECTION 17. IC 5-28-16-4, AS AMENDED BY P.L.213-2015,
 21 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2016]: Sec. 4. (a) The board has the following powers:

- 23 (1) To accept, analyze, and approve applications under this
- 24 chapter.
- 25 (2) To contract with experts for advice and counsel.
- 26 (3) To employ staff to assist in carrying out this chapter, including
- 27 providing assistance to applicants who wish to apply for a grant
- 28 or loan from the fund, analyzing proposals, working with experts
- 29 engaged by the board, and preparing reports and
- 30 recommendations for the board.
- 31 (4) To approve applications for grants or loans from the fund,
- 32 subject to budget agency review under section 2(e) of this chapter.
- 33 (5) To establish programs and initiatives with corresponding
- 34 investment policies.

35 (b) The board shall give priority to applications for grants or loans
 36 from the fund that:

- 37 (1) have the greatest economic development potential; and
- 38 (2) require the lowest ratio of money from the fund compared
- 39 with the combined financial commitments of the applicant and
- 40 those cooperating on the project.

41 (c) The board shall make final funding determinations for
 42 applications for grants or loans from the fund, subject to budget agency



review under section 2(e) of this chapter. In making a determination on a proposal intended to obtain federal or private research funding, the board shall be advised by a peer review panel and shall consider the following factors in evaluating the proposal:

- (1) The scientific merit of the proposal.
- (2) The predicted future success of federal or private funding for the proposal.
- (3) The ability of the researcher to attract merit based scientific funding of research.
- (4) The extent to which the proposal evidences interdisciplinary or interinstitutional collaboration among two (2) or more Indiana postsecondary educational institutions or private sector partners, as well as cost sharing and partnership support from the business community.

The purposes for which grants and loans may be made include erecting, constructing, reconstructing, extending, remodeling, improving, completing, equipping, and furnishing research and technology transfer facilities.

(d) The peer review panel shall be chosen by and report to the board. In determining the composition and duties of a peer review panel, the board shall consider the National Institutes of Health and the National Science Foundation peer review processes as models. The members of the panel must have extensive experience in federal research funding. A panel member may not have a relationship with any private entity or postsecondary educational institution in Indiana that would constitute a conflict of interest for the panel member.

(e) In making a determination on any other application for a grant or loan from the fund involving a proposal to transfer research results and technologies into marketable products or commercial ventures, the board shall consult with experts as necessary to analyze the likelihood of success of the proposal and the relative merit of the proposal.

(f) A grant or loan from the fund may not be submitted for review by the budget agency under section 2(e) of this chapter unless the grant or loan has received a positive recommendation from a peer review panel described in this section.

(g) The ~~board~~ **corporation** shall report quarterly to the budget committee concerning grants and loans made under this chapter.

SECTION 18. IC 5-28-16-5, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. The ~~board~~ **corporation** may use money in the fund to cover administrative expenses incurred in carrying out the requirements of this chapter.



1 SECTION 19. IC 5-28-16-6, AS ADDED BY P.L.4-2005,
 2 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2016]: Sec. 6. The **board corporation** shall submit an annual
 4 report to the legislative council before September 1. The report must be
 5 in an electronic format under IC 5-14-6 and must contain the following
 6 information concerning fund activity in the preceding state fiscal year:

7 (1) The name of each entity receiving a grant from the fund.

8 (2) The location of each entity sorted by:

9 (A) county, in the case of an entity located in Indiana; or

10 (B) state, in the case of an entity located outside Indiana.

11 (3) The amount of each grant awarded to each entity.

12 SECTION 20. IC 5-28-17-3, AS ADDED BY P.L.56-2009,
 13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2016]: Sec. 3. **If the corporation's corporation maintains a**
 15 **small business division described in IC 5-28-5-6.5, the corporation**
 16 **shall provide free access to the office's services through:**

17 (1) a toll free telephone number; and

18 (2) an Internet web page maintained on the corporation's web site.

19 SECTION 21. IC 5-28-28-5, AS AMENDED BY P.L.175-2013,
 20 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2016]: Sec. 5. (a) ~~Beginning February 1, 2008~~, The
 22 corporation shall:

23 (1) submit an economic incentives and compliance report to:

24 (A) the governor; and

25 (B) the legislative council in an electronic format under
 26 IC 5-14-6; and

27 (2) publish the report on the corporation's Internet web site;
 28 on the schedule specified in subsection (b).

29 (b) ~~Before August 1, 2013, the corporation shall submit and publish~~
 30 ~~an incentives and compliance report that provides updated information~~
 31 ~~for active incentive agreements approved and awarded after January 1,~~
 32 ~~2005; through June 30, 2013. After December 31, 2013, The~~
 33 ~~corporation shall submit and publish before February 1 of each year an~~
 34 ~~incentives and compliance report that provides updated information for~~
 35 ~~active incentive agreements approved and awarded after January 1,~~
 36 ~~2005, through the immediately preceding calendar year.~~

37 SECTION 22. IC 5-28-28-9, AS ADDED BY P.L.110-2010,
 38 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2016]: Sec. 9. (a) ~~Beginning in 2010~~, The economic
 40 incentives and compliance report required under section 5 of this
 41 chapter must include an annual report containing summary statistics on
 42 the effectiveness of and compliance with all incentives granted by the



corporation. The report required by this section must describe:

- (1) the overall compliance with the terms and conditions of incentives provided; and
- (2) penalties imposed for failure to comply with the terms and conditions of incentives provided.

The report must also be submitted to the general assembly in an electronic format under IC 5-14-6.

(b) Upon request, the corporation shall make available:

- (1) information specifying each person's compliance with its incentive agreement and any incentive that had to be reduced or paid back as a result of noncompliance with an incentive agreement;
- (2) information stating, for each incentive recipient, the total incentive provided for each job created, computed from the date the incentive is granted through June 30 of the year of the report;
- (3) information concerning all waivers or modifications under section 8 of this chapter; and
- (4) information describing all hearings and determinations under IC 5-28-6-6.

SECTION 23. IC 6-3.1-13-3 IS REPEALED [EFFECTIVE JULY 1, 2016]. ~~Sec. 3: As used in this chapter, "director" means the president of the corporation.~~

SECTION 24. IC 6-3.1-13-14, AS AMENDED BY P.L.167-2014, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 14. (a) A person that proposes a project to create new jobs in Indiana may apply, as provided in section 15 of this chapter, to the corporation to enter into an agreement for a tax credit under this chapter.

(b) A person that proposes to retain existing jobs in Indiana may apply, as provided in section 15.5 of this chapter, to the corporation to enter into an agreement for a tax credit under this chapter.

(c) This subsection applies to taxable years beginning after December 31, 2014, and before January 1, 2019. A person that proposes to employ in Indiana students who have participated in a course of study that includes a cooperative arrangement between an educational institution and an employer for the training of students in high wage, high demand jobs that require an industry certification may apply, as provided in section 15.7 of this chapter, to the corporation to enter into a agreement for a tax credit under this chapter.

(d) The ~~director~~ **corporation** shall prescribe the form of the application.

SECTION 25. IC 6-3.1-13-19, AS AMENDED BY P.L.197-2005,



SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 19. In the case of a credit awarded for a project to create new jobs in Indiana, the corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.

(3) The credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain operations at the project location for at least two (2) years following the last taxable year in which the applicant claims the tax credit or carries over an unused part of the tax credit under section 18 of this chapter. A taxpayer is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.

(5) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.

(6) A requirement that the taxpayer shall annually report to the corporation the number of new employees who are performing jobs not previously performed by an employee, the new income tax revenue withheld in connection with the new employees, and any other information the ~~director~~ **corporation** needs to perform the ~~director's~~ **corporation's** duties under this chapter.

(7) A requirement that the ~~director~~ **corporation** is authorized to verify with the appropriate state agencies the amounts reported under subdivision (6), and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(8) A requirement that the taxpayer shall provide written notification to the ~~director~~ **and the** corporation not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(9) Any other performance conditions that the corporation determines are appropriate.

SECTION 26. IC 6-3.1-13-19.5, AS AMENDED BY P.L.197-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 19.5. (a) In the case of a credit awarded for a project to retain existing jobs in Indiana, the corporation shall enter into an agreement with an applicant that is awarded a credit under this



chapter. The agreement must include all of the following:

- (1) A detailed description of the business that is the subject of the agreement.
- (2) The duration of the tax credit and the first taxable year for which the credit may be claimed.
- (3) The credit amount that will be allowed for each taxable year.
- (4) A requirement that the applicant shall maintain operations at the project location for at least two (2) years following the last taxable year in which the applicant claims the tax credit or carries over an unused part of the tax credit under section 18 of this chapter. An applicant is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.
- (5) A requirement that the applicant shall annually report the following to the corporation:
 - (A) The number of employees who are employed in Indiana by the applicant.
 - (B) The compensation (including benefits) paid to the applicant's employees in Indiana.
 - (C) The amount of the:
 - (i) facility improvements;
 - (ii) equipment and machinery upgrades, repairs, or retrofits;
 - or
 - (iii) other direct business related investments, including training.
- (6) A requirement that the applicant shall provide written notification to the ~~director and the~~ corporation not more than thirty (30) days after the applicant makes or receives a proposal that would transfer the applicant's state tax liability obligations to a successor taxpayer.
- (7) Any other performance conditions that the corporation determines are appropriate.

(b) An agreement between an applicant and the corporation must be submitted to the budget committee for review and must be approved by the budget agency before an applicant is awarded a credit under this chapter for a project to retain existing jobs in Indiana.

SECTION 27. IC 6-3.1-13-19.7, AS ADDED BY P.L.167-2014, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 19.7. (a) In the case of a credit awarded for employment in Indiana of students who have participated in a course of study that includes a cooperative arrangement between an educational institution and an employer for the training of students in



high wage, high demand jobs that require an industry certification, the corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the applicant's own cooperative arrangements between the applicant and educational institutions for the training of students in high wage, high demand jobs that require an industry certification.

(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.

(3) The credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain the applicant's cooperative arrangements between the applicant and educational institutions for the training of students in high wage, high demand jobs that require an industry certification for at least two (2) years following the last taxable year in which the applicant claims the tax credit or carries over an unused part of the tax credit under section 18 of this chapter. A taxpayer is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.

(5) A specific method for determining the number of employees who:

(A) were students who participated in a course of study that included a cooperative arrangement between an employer and an educational institution for the training of students in high wage, high demand jobs that require an industry certification; and

(B) are employed during a taxable year.

(6) A requirement that the taxpayer annually shall report to the corporation:

(A) the number of employees who participated in a course of study that includes a cooperative arrangement between an employer and an educational institution for the training of students in high wage, high demand jobs that require an industry certification;

(B) the income tax revenue withheld in connection with the employees described in clause (A); and

(C) any other information the ~~director~~ **corporation** needs to perform the ~~director's~~ **corporation's** duties under this chapter.

(7) A requirement that the ~~director~~ **corporation** is authorized to verify with the appropriate state agencies the information reported under subdivision (6), and after doing so shall issue a certificate



to the taxpayer stating that the information has been verified.

(8) A requirement that the taxpayer shall provide written notification to the ~~director and the~~ corporation not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(9) Any other performance conditions that the corporation determines are appropriate.

(b) A taxpayer who is awarded a credit under this chapter for employees who participated in a course of study that included a cooperative agreement between an employer and an educational institution for the training of students in high wage, high demand jobs that require an industry certification may claim the credit only for employees whose course of study included a cooperative arrangement between the taxpayer and an educational institution for the training of students in high wage, high demand jobs that require an industry certification.

SECTION 28. IC 6-3.1-13-22, AS AMENDED BY P.L.4-2005, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 22. If the ~~department of state revenue or the~~ corporation determines that a taxpayer who has claimed a credit under this chapter is not entitled to the credit because of the taxpayer's noncompliance with the requirements of the tax credit agreement or all of the provisions of this chapter, the ~~department or the~~ corporation shall, after giving the taxpayer an opportunity to explain the noncompliance:

(1) notify the department of state revenue of the noncompliance; and

(2) request the department of state revenue to impose an assessment on the taxpayer in an amount that may not exceed the sum of any previously allowed credits under this chapter together with interest and penalties required or permitted by law.

SECTION 29. IC 6-3.1-13-24, AS AMENDED BY P.L.4-2005, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 24. On a biennial basis, the corporation shall provide for an evaluation of the tax credit program. The evaluation shall include an assessment of the effectiveness of the program in creating new jobs and retaining existing jobs in Indiana and of the revenue impact of the program, and may include a review of the practices and experiences of other states with similar programs. The ~~director~~ **corporation** shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of



1 the house of representatives after June 30 and before November 1 in
2 each odd-numbered year.

3 SECTION 30. IC 6-3.1-26-3 IS REPEALED [EFFECTIVE JULY
4 1, 2016]. ~~Sec. 3: As used in this chapter, "director" has the meaning set~~
5 ~~forth in IC 6-3.1-13-3.~~

6 SECTION 31. IC 6-3.1-26-17, AS AMENDED BY P.L.288-2013,
7 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2016]: Sec. 17. A person that proposes a project to:

- 9 (1) create new jobs or increase wage levels in Indiana; or
- 10 (2) substantially enhance the logistics industry by creating new
11 jobs, preserving existing jobs that otherwise would be lost,
12 increasing wages in Indiana, or improving the overall Indiana
13 economy, in the case of a logistics investment being claimed by
14 the applicant;

15 may apply to the corporation before the taxpayer makes the qualified
16 investment to enter into an agreement for a tax credit under this
17 chapter. The ~~director~~ **corporation** shall prescribe the form of the
18 application.

19 SECTION 32. IC 6-3.1-26-21, AS AMENDED BY P.L.288-2013,
20 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2016]: Sec. 21. The corporation shall enter into an agreement
22 with an applicant that is awarded a credit under this chapter. The
23 agreement must include all the following:

- 24 (1) A detailed description of the project that is the subject of the
25 agreement.
- 26 (2) The first taxable year for which the credit may be claimed.
- 27 (3) The amount of the taxpayer's state tax liability for each tax in
28 the taxable year of the taxpayer that immediately preceded the
29 first taxable year in which the credit may be claimed.
- 30 (4) The maximum tax credit amount that will be allowed for each
31 taxable year.
- 32 (5) A requirement that the taxpayer shall maintain operations at
33 the project location for at least ten (10) years during the term that
34 the tax credit is available.
- 35 (6) A specific method for determining the number of new
36 employees employed during a taxable year who are performing
37 jobs not previously performed by an employee.
- 38 (7) A requirement that the taxpayer shall annually report to the
39 corporation the number of new employees who are performing
40 jobs not previously performed by an employee, the average wage
41 of the new employees, the average wage of all employees at the
42 location where the qualified investment is made, if the qualified



investment is not being claimed as a logistics investment by the applicant, and any other information the ~~director~~ **corporation** needs to perform the ~~director's~~ **corporation's** duties under this chapter.

(8) A requirement that the ~~director~~ **corporation** is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(9) This subdivision applies only to a qualified investment that is not being claimed as a logistics investment by the applicant. A requirement that the taxpayer shall pay an average wage to all its employees other than highly compensated employees in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

(10) A requirement that the taxpayer will keep the qualified investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.

(11) This subdivision applies only to a qualified investment that is not being claimed as a logistics investment by the applicant. A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.

(12) A requirement that the taxpayer shall provide written notification to the ~~director~~ and the corporation not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(13) Any other performance conditions that the corporation determines are appropriate.

SECTION 33. IC 6-3.1-26-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 22. A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the ~~director's~~ **corporation's** certificate of verification under this chapter for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

SECTION 34. IC 6-3.1-26-23, AS AMENDED BY P.L.4-2005, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 23. ~~If the director determines that~~



a taxpayer who has received a credit under this chapter is not complying with the requirements of the tax credit agreement or all the provisions of this chapter, the director shall, after giving the taxpayer an opportunity to explain the noncompliance, notify the Indiana economic development corporation and the department of state revenue of the noncompliance and request an assessment. The department of state revenue, with the assistance of the director, shall state the amount of the assessment, which may not exceed the sum of any previously allowed credits under this chapter. After receiving the notice, the department of state revenue shall make an assessment against the taxpayer under IC 6-8.1. **If the corporation determines that a taxpayer who has claimed a credit under this chapter is not entitled to the credit because of the taxpayer's noncompliance with the requirements of the tax credit agreement or all the provisions of this chapter, the corporation shall, after giving the taxpayer an opportunity to explain the noncompliance:**

- (1) notify the department of state revenue of the noncompliance; and**
- (2) request the department of state revenue to impose an assessment on the taxpayer in an amount that may not exceed the sum of any previously allowed credits under this chapter together with interest and penalties required or permitted by law.**

SECTION 35. IC 6-3.1-26-25, AS AMENDED BY P.L.288-2013, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 25. (a) On a biennial basis, the corporation shall provide for an evaluation of the tax credit program. The evaluation must include an assessment of the effectiveness of the program in creating new jobs and increasing wages in Indiana and of the revenue impact of the program and may include a review of the practices and experiences of other states with similar programs. The **director corporation** shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives after June 30 and before November 1 in each odd-numbered year. The report provided to the president pro tempore of the senate and the speaker of the house of representatives must be in an electronic format under IC 5-14-6.

(b) The department shall report, not later than December 15 each year, to the budget committee concerning the use of the credit for logistics investments under this chapter. The report must include the following with regard to the previous state fiscal year for logistics investments:



(1) Summary information regarding the taxpayers and the use of the credit, including the amount of credits approved, the number of taxpayers applying for the credit and claiming the credit, the number of employees who are employed in Indiana by the taxpayers claiming the credit, the amount and type of new qualified expenditures for which the credit was granted, the total dollar amount of new credits claimed and the average amount of the credit claimed per taxpayer, the amount of credits to be carried forward to a subsequent taxable year, and the percentage of the total credits claimed as compared to the total adjusted gross income of all the taxpayers claiming the credit.

(2) The name and address of each taxpayer claiming the credit and the amount of the credit applied for by and granted to each taxpayer.

SECTION 36. IC 6-3.1-31.9-4 IS REPEALED [EFFECTIVE JULY 1, 2016]. ~~Sec. 4: As used in this chapter, "director" has the meaning set forth in IC 6-3.1-13-3.~~

SECTION 37. IC 6-3.1-31.9-18, AS ADDED BY P.L.223-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 18. The corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

- (1) A detailed description of the project that is the subject of the agreement.
- (2) The first taxable year for which the credit may be claimed.
- (3) The amount of the taxpayer's state tax liability for each tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.
- (4) The maximum tax credit amount that will be allowed for each taxable year.
- (5) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.
- (6) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.
- (7) A requirement that the taxpayer shall annually report to the corporation the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, the average wage of all employees at the location where the qualified investment is made, and any other information the ~~director~~ **corporation** needs to perform the



~~director's corporation's~~ duties under this chapter.

(8) A requirement that the ~~director corporation~~ is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(9) A requirement that the taxpayer shall pay an average wage to all its employees other than highly compensated employees in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

(10) A requirement that the taxpayer will keep the qualified investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.

(11) A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.

(12) A requirement that the taxpayer shall provide written notification to the ~~director and the~~ corporation not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(13) Any other performance conditions that the corporation determines are appropriate.

SECTION 38. IC 6-3.1-31.9-19, AS ADDED BY P.L.223-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 19. A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the ~~director's corporation's~~ certificate of verification under this chapter for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

SECTION 39. IC 6-3.1-31.9-20, AS ADDED BY P.L.223-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 20. ~~If the director determines that a taxpayer who has received a credit under this chapter is not complying with the requirements of the tax credit agreement or all the provisions of this chapter, the director shall, after giving the taxpayer an opportunity to explain the noncompliance, notify the Indiana economic development corporation and the department of state revenue of the noncompliance and request an assessment. The department of state revenue, with the~~



1 assistance of the director; shall state the amount of the assessment;
 2 which may not exceed the sum of any previously allowed credits under
 3 this chapter. After receiving the notice, the department of state revenue
 4 shall make an assessment against the taxpayer under IC 6-8.1. **If the**
 5 **corporation determines that a taxpayer who has claimed a credit**
 6 **under this chapter is not entitled to the credit because of the**
 7 **taxpayer's noncompliance with the requirements of the tax credit**
 8 **agreement or all the provisions of this chapter, the corporation**
 9 **shall, after giving the taxpayer an opportunity to explain the**
 10 **noncompliance:**

11 (1) notify the department of state revenue of the
 12 noncompliance; and

13 (2) request the department of state revenue to impose an
 14 assessment on the taxpayer in an amount that may not exceed
 15 the sum of any previously allowed credits under this chapter
 16 together with interest and penalties required or permitted by
 17 law.

18 SECTION 40. IC 6-3.1-31.9-21, AS ADDED BY P.L.223-2007,
 19 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2016]: Sec. 21. On or before March 31 each year, the ~~director~~
 21 **corporation** shall submit a report to the ~~corporation on the tax credit~~
 22 ~~program under this chapter.~~ **legislative council on the tax credit**
 23 **program under this chapter.** The report must include information on
 24 the number of agreements that were entered into under this chapter
 25 during the preceding calendar year, a description of the project that is
 26 the subject of each agreement, an update on the status of projects under
 27 agreements entered into before the preceding calendar year, and the
 28 sum of the credits awarded under this chapter. ~~A copy of~~ The report
 29 shall be transmitted in an electronic format under IC 5-14-6. ~~to the~~
 30 ~~executive director of the legislative services agency for distribution to~~
 31 ~~the members of the general assembly.~~

32 SECTION 41. IC 6-3.1-31.9-22, AS ADDED BY P.L.223-2007,
 33 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2016]: Sec. 22. On a biennial basis, the corporation shall
 35 provide for an evaluation of the tax credit program. The evaluation
 36 must include an assessment of the effectiveness of the program in
 37 creating new jobs and increasing wages in Indiana and of the revenue
 38 impact of the program and may include a review of the practices and
 39 experiences of other states with similar programs. The ~~director~~
 40 **corporation** shall submit a report on the evaluation to the governor, the
 41 president pro tempore of the senate, and the speaker of the house of
 42 representatives after June 30 and before November 1 in each



- 1 odd-numbered year. The report provided to the president pro tempore
- 2 of the senate and the speaker of the house of representatives must be in
- 3 an electronic format under IC 5-14-6.



COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Technology, to which was referred Senate Bill No. 378, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 23, delete lines 12 through 42.
 Page 24, delete lines 1 through 14.
 Page 24, delete lines 22 through 42.
 Delete page 25.
 Page 26, delete lines 1 through 16.
 Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 378 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 6, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred Senate Bill 378, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 378 as printed January 26, 2016.)

SMALTZ

Committee Vote: Yeas 9, Nays 0

